

BILL NO. S-73-01-06

SPECIAL ORDINANCE NO. S- 8-04-73

AN ORDINANCE authorizing the Board of Public Works to bid at a foreclosure sale of properties belonging to INDIANA SUBURBAN SEWERS, INC. and SUBURBAN SERVICES, INC.

WHEREAS, it is essential to the present and future health, and to the future development, of the City of Fort Wayne, that the City and its environs be served with an adequate sewage disposal system operating under sound and financially responsible management; and

WHEREAS, as long ago as the mid-1960's the City of Fort Wayne had received many requests to extend its sewer services into the area lying southeast of its municipal limits and south of the Maumee River, which area even then suffered from a sewage pollution problem; and

WHEREAS, the City of Fort Wayne had proposed to construct an interceptor sewer in the northern portion of said area, dependent upon certain federal funds being supplied, which funds did not become available; and

WHEREAS, when it was learned that federal funds would not be available for the construction of said interceptor sewer, the City of Fort Wayne entered into an agreement with INDIANA SUBURBAN SEWERS, INC., which agreement was dated March 17, 1966 and which agreement was approved in Special Ordinance 280-66 which ordinance was adopted by the Common Council of the City of Fort Wayne on April 29, 1966; and

WHEREAS, said agreement provided, in general, that INDIANA SUBURBAN SEWERS, INC. would construct a sewer system within the aforesaid area; that said system would conform with the standards and specifications of the City of Fort Wayne; that the City of Fort Wayne would treat sewage collected by INDIANA SUBURBAN SEWERS, INC. within the aforesaid area; that INDIANA

1 SUBURBAN SEWERS, INC. would compensate the City of Fort Wayne
2 for such treatment; and that the City of Fort Wayne would have
3 an option to purchase the sewer system of INDIANA SUBURBAN
4 SEWERS, INC. within the aforesaid territory; and

5 WHEREAS, said agreement was approved by the Public
6 Service Commission of Indiana, subject to certain exceptions not
7 here material, by Order dated September 1, 1967 in Cause No.
8 31154; and

9 WHEREAS, INDIANA SUBURBAN SEWERS, INC. entered into
10 an agreement with SUBURBAN SERVICES, INC. under which the latter
11 was to construct the sewage disposal system contemplated by the
12 aforesaid agreement between the City of Fort Wayne and INDIANA
13 SUBURBAN SEWERS, INC.; and

14 WHEREAS, the construction work on said sewer system
15 had progressed to such a point that INDIANA SUBURBAN SEWERS, INC.
16 was rendering sewage disposal service within the aforesaid area
17 by the year 1969; and,

18 WHEREAS, the City of Fort Wayne began, in 1969, to
19 treat sewage collected by INDIANA SUBURBAN SEWERS, INC.; and,

20 WHEREAS, the City of Fort Wayne and INDIANA SUBURBAN
21 SEWERS, INC. have been engaged in controversy as to the compen-
22 sation INDIANA SUBURBAN SEWERS, INC. is to pay the City of Fort
23 Wayne for treatment of sewage, and INDIANA SUBURBAN SEWERS, INC.
24 paid no compensation to the City of Fort Wayne for treating its
25 sewage; and

26 WHEREAS, INDIANA SUBURBAN SEWERS, INC. and SUBURBAN
27 SERVICES, INC. have become delinquent in their accounts with
28 certain secured creditors; and

29 WHEREAS, the City of Fort Wayne had become concerned
30 over the slowness with which construction of the sewer system
31 was progressing; and

32 WHEREAS, the financial difficulties of INDIANA SUBURBAN
33 SEWERS, INC. and SUBURBAN SERVICES, INC. had become so serious
34 by the winter of 1970-71 that the City of Fort Wayne and INDIANA
35 SUBURBAN SEWERS, INC. began negotiations looking toward the amend-
ment of the aforesaid agreement so as to permit the City to

1 purchase a portion of the aforesaid sewer system, thus providing
2 funds with which INDIANA SUBURBAN SEWERS, INC. could meet its
3 obligations in part, and thus providing Fort Wayne with operating
4 control over a portion of said system and the right to receive
5 and obtain all revenues accruing from the operation of such
6 portion; and

7 WHEREAS, the City of Fort Wayne and INDIANA SUBURBAN
8 SEWERS, INC. entered into an agreement signed by the Board of
9 Public Works of the City of Fort Wayne under date of November
10 23, 1971, accepted by INDIANA SUBURBAN SEWERS, INC. and date
11 of December 6, 1971, approved in Special Ordinance No. S-773-71
12 adopted by the Common Council of the City of Fort Wayne on
13 December 28, 1971; and

14 WHEREAS, said agreement, among other things, would have
15 effected an amendment of the earlier agreement between the City
16 of Fort Wayne and INDIANA SUBURBAN SEWERS, INC. and would have
17 permitted the City of Fort Wayne to purchase a portion of the
18 aforesaid sewer system for the sum of One Million Thirty Seven
19 Thousand Dollars (\$1,037,000), against which delinquent service
20 charges were to be credited; and,

21 WHEREAS, the parties became embroiled in controversy
22 before the Public Service Commission of Indiana with regard to
23 the description to the portion of the aforesaid sewer system
24 which would have been sold pursuant to said agreement executed
25 in 1971; and

26 WHEREAS, by order dated December 22, 1972 in Cause No.
27 32 876 said Public Service Commission of Indiana refused to
28 approve said agreement executed in 1971; and

29 WHEREAS, on December 20, 1972 the Allen Superior Court
30 had entered judgment against INDIANA SUBURBAN SEWERS, INC. and
31 SUBURBAN SERVICES, INC., in Cause No. S-72-148, which action was
32 American Fletcher National Bank and Trust Company, plaintiff vs.
33 Indiana Suburban Sewers, Inc. and Suburban Services, Inc., defen-
34 dants and John Dehner, Inc., defendant and cross-complaintant;
35 and

1 WHEREAS, said judgment ordered that American Fletcher
2 National Bank and Trust Company recover from INDIANA SUBURBAN
3 SEWERS, INC. and SUBURBAN SERVICES, INC. jointly and severally
4 the sum of Eight Hundred Ninety-Five Thousand Six Hundred Forty-
5 Four Dollars and Thirty-One Cents (\$895,644.31), together with
6 interest and costs, and said judgment further ordered that JOHN
7 DEHNER, INC. recover from INDIANA SUBURBAN SEWERS, INC. and
8 SUBURBAN SERVICES, INC., jointly and severally, the sum of One
9 Hundred Fifty-Four Thousand Eight Hundred Eighty Dollars and
10 Thirty-Five Cents (\$154,880.35); and

11 WHEREAS, said judgment further ordered the sale on
12 foreclosure of the sewer system and all the property, real and
13 personal, tangible and intangible, owned by INDIANA SUBURBAN
14 SEWERS, INC. and SUBURBAN SERVICES, INC. within the rural area
15 southeast of the City of Fort Wayne, which once had been
16 franchised to INDIANA SUBURBAN SEWERS, INC. by the Public Service
17 Commission of Indiana in the aforesaid Cause No. 31154 and which
18 is the area which was the subject of the agreement between the
19 City of Fort Wayne and INDIANA SUBURBAN SEWERS, INC., which
20 agreement was approved by said Public Service Commission of
21 Indiana, with exceptions not here material, in said Cause No.
22 31154, as aforesaid; and

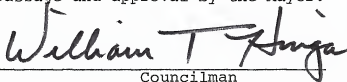
23 WHEREAS, the purchase of said property on foreclosure
24 by the City of Fort Wayne would enable the City to begin operating
25 so much of the sewer system as is completed, and to complete and
26 operate the remainder of said system, thereby permitting the
27 City to receive the revenues derived from said operation and
28 freeing the City from dependence upon INDIANA SUBURBAN SEWERS,
29 INC., from additional controversy with INDIANA SUBURBAN SEWERS,
30 INC. and from any future controversy with the creditors of
31 INDIANA SUBURBAN SEWERS, INC.

32 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL
33 OF THE CITY OF FORT WAYNE, INDIANA:

34 SECTION 1. The Board of Public Works of the City of
35 Fort Wayne is hereby authorized to purchase all the property of

1 INDIANA SUBURBAN SEWERS, INC. and SUBURBAN SERVICES, INC. at
2 the foreclosure sale to be held by the Sheriff of Allen County,
3 Indiana pursuant to the aforesaid judgment for a sum not to
4 exceed One Million Thirty-Seven Thousand Dollars (\$1,037,000.00).

5 SECTION 2. This Ordinance shall be in full force and
6 effect from and after its passage and approval by the Mayor.

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Councilman

APPROVED AS TO FORM
AND LEGALITY.


CITY ATTORNEY

Read the first time in full and on motion by _____ seconded by _____
and duly adopted, read the second time by title and
referred to the Committee on _____ (and to the
City Plan Commission for recommendation) (and Public Hearing to be held after due legal
notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on
the _____ day of _____, 19____, at _____ o'clock
P.M., E.S.T.

Date: 1-9-73

Charles W. Westermann
CITY CLERK

Read the third time in full and on motion by Steve Hinga
seconded by Talarico and duly adopted, placed on its passage.
Passed (~~last~~) by the following vote:

	AYES <u>9</u>	NAYS <u>0</u>	ABSTAINED _____	ABSENT _____	to-wit:
Murphy	✓				
Hinga	✓				
Kraus	✓				
Nuckols	✓				
Moses	✓				
Schmidt, D.	✓				
Schmidt, V.	✓				
Stier	✓				
Talarico	✓				

Date 1-9-73

Charles W. Westermann
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana as (~~Mayor~~
~~Map~~) (~~General~~) (~~Annexation~~) (~~Special~~) (~~Appropriation~~) Ordinance (~~Resolution~~) No. 1-04-73
on the 9th day of January, 1973.

ATTEST: (SEAL)

Charles W. Westermann
CITY CLERK

W. L. Moses Jr.
PRESIDENT

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 10th day of
January, 1973 - at the hour of 10:30 o'clock A.

Charles W. Westermann
CITY CLERK

Approved and signed by me this 13th day of January
at the hour of 4:00 o'clock P M., E.S.T.

James A. Schumacher
Mayor

SUSPENSION OF RULES

BILL NO. 5-73-01-06

Councilman Arthur Hingor, moved to suspend the rules on passage of BILL NO. 0-73-01-06, at this meeting of January 9, 1973, of the Common Council of the City of Fort Wayne, Indiana. Said motion was seconded by Councilman Hingor, and duly passed by unanimous vote of all legally elected members of the said Common Council.

The above BILL and Special ORDINANCE was accordingly placed on its passage.

DATE: 1-9-73

Richard W. Moore Jr.
PRESIDING OFFICER

Charles W. Whitman
CITY CLERK

	<u>9</u> AYES	<u>0</u> NAYS	ABSTAINED	ABSENT	TO-WIT
<u>BURNS</u>	✓	—	—	—	—
<u>HINGA</u>	✓	—	—	—	—
<u>KRAUS</u>	✓	—	—	—	—
<u>NUCKOLS</u>	✓	—	—	—	—
<u>MOSES</u>	✓	—	—	—	—
<u>D. SCHMIDT</u>	✓	—	—	—	—
<u>V. SCHMIDT</u>	✓	—	—	—	—
<u>STIER</u>	✓	—	—	—	—
<u>TALARICO</u>	✓	—	—	—	—

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as Special Ordinance 1-9-73

ATTEST:

(SEAL)

DATE: 1-9-73

Charles W. Whitman
CITY CLERK

1-9-73

ORDINANCE CHECK-OFF SHEET

INFORMATION REGARDING ORDINANCE

CONTENTS OF ORDINANCE

BILL NO.	D-73-01-06
ORDINANCE NO.	D-04-73
<input checked="" type="checkbox"/> REGULAR SESSION	1-9-73
SPECIAL SESSION	
APPROVED AS TO FORM AND LEGALITY	<i>Lyan</i>
BILL WRITTEN BY	<i>Ch. of Works</i>
DATE INTRODUCED	1-9-73
REFERRED TO SAID STANDING COMMITTEE	
REFERRED TO CITY PLAN	
LEGAL PUBLIC HEARING	
LEGAL PUBLICATION	
JOINT HEARING	
DEPARTMENT HEARING	
HOLD FILE	
<input checked="" type="checkbox"/> PASS	1-9-73
DO NOT PASS	
WITHDRAWN	
<input checked="" type="checkbox"/> SUSPENSION OF RULES	1-9-73
PRIOR APPROVAL	
ORDINANCE TAKEN OUT OF OFFICE	
OTHER INSTRUCTIONS REGARDING ORDINANCE	
CORRECTIONS MADE TO ORDINANCE	
PEOPLE SPEAKING FOR ORDINANCE	
PEOPLE SPEAKING AGAINST ORDINANCE	

<input checked="" type="checkbox"/>	<i>Suspension of Rules</i> COMMITTEE SHEET
<input checked="" type="checkbox"/>	VOTE SHEET
	PURCHASE ORDERS
	BIDS
	ORDERS, BIDS OR OTHER PAPERS TAKEN OUT AND BY WHOM
	LETTER REQUESTING ORDINANCE DRAWN UP BY CITY ATTORNEY
	COMMUNICATIONS FROM
	ZONING MAPS
	ABSTRACTS
	TITLES
	PRIOR APPROVAL LETTER

COUNCILMAN'S VOTE

	AYES	NAYS	ABSENT
BURNS	<input checked="" type="checkbox"/>		
HINCA	<input checked="" type="checkbox"/>		
KRAUS	<input checked="" type="checkbox"/>		
MOSES	<input checked="" type="checkbox"/>		
NUCKOLS	<input checked="" type="checkbox"/>		
D. SCHMIDT	<input checked="" type="checkbox"/>		
V. SCHMIDT	<input checked="" type="checkbox"/>		
STIER	<input checked="" type="checkbox"/>		
TALARICO	<input checked="" type="checkbox"/>		

COMMENTS:

Suspension of Rules.